



## **Economic Impact Analysis Virginia Department of Planning and Budget**

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### **12 VAC 5-390 – Virginia Department of Health Rules and Regulations for the Licensure of Hospice March 5, 2004**

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The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.G of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

### **Summary of the Proposed Regulation**

Due to the extensive nature of the changes occurring in practice since 1990 when this regulation was first promulgated, Virginia Department of Health proposes to replace the entire hospice regulation with a new updated set of rules and regulations. Most of the proposed changes are clarifications of the language to reflect procedures currently followed in practice and the changes in the Code of Virginia. The proposed substantive changes are (i) increasing license fees, (ii) switching from annual inspections to biennial inspections, and (iii) adding one year of experience or training in direct health care delivery services to the back up administrator qualifications.

### **Estimated Economic Impact**

These regulations apply to hospice service providers. Hospice programs provide palliative care to terminally ill patients, most of the time in their homes. The main purpose of a hospice program is to provide physical, psychological, and spiritual comfort during the final

stages of a terminal illness and during dying and bereavement. Approximately 75 hospice providers are licensed by the Department of Health (the department).

The proposed changes will significantly increase the license fees. The fee changes are summarized in the following table.

<b>Annual Budget</b>	<b>Type</b>	<b>Current Fee</b>	<b>Proposed Fee</b>
Over \$200,000	Initial License	\$100	\$500
	Renewal License	\$50	\$500
\$100,000 to \$199,999	Initial License	\$75	\$500
	Renewal License	\$35	\$500
Less than \$100,000	Initial License	\$50	\$500
	Renewal License	\$25	\$500
All	License Reissue	\$25	\$250
All	License Extension/Late fee	\$25	\$50

According to the department, the fees have not been updated since 1990.<sup>1</sup> In fiscal year 2003, the annual budget for the hospice program was \$115,000, which covers surveyors' salaries, benefits, travel expenses, and all other miscellaneous expenses. The average cost of a survey was about \$1,690. However, the department collected only \$3,525 from all providers, or about \$47 per provider. Thus, approximately 93% of the total cost was financed through general fund revenues and only 7% through license fees. With the proposed fee structure, the department will collect approximately \$37,500 from hospice providers every year. In short, proposed changes will shift a higher proportion of costs to operate the licensing program from the general fund to providers.

On average, a provider will pay an additional \$453 per year. Most patients are known to be insured under Medicare, or a private insurance, which have predetermined reimbursement rates for the services provided. Thus, the ability of providers to pass on some of the costs to their

<sup>1</sup> Consumer prices have increased by 45% on average since 1990.

patients seems to be limited. Higher license fees will more likely reduce the provider profits and may discourage, at the margin, the provision of some hospice services. The main benefit, on the other hand, is the reduction in the general fund monies needed to finance this program.

Another significant change is the proposal to conduct state inspections every two years rather than every year. The scope of the inspections covers the qualifications of the personnel, provision and coordination of services, management, operations, staffing, equipment, clinical records, and quality of care. Almost all of these programs are Medicare providers and therefore subject to a federal inspection (in addition to the state inspection) conducted every five years by the department. The department notes that the complaint rate for the hospice program is nominal and indicates that complaints would be investigated when they are received regardless of the periodic inspections. Thus, there does not seem to be a good reason to expect significant adverse health and safety effects from less frequently conducted state inspections.

On the other hand, biennial inspections will provide significant savings in staff time. The department notes that the number of licenses has been increasing in the last four years. The biennial inspections are expected to relieve some of the increase in the workload, allow the current staff to meet the current periodic survey needs, and improve complaint investigations.

The proposed changes will also add a one-year training and experience requirement in direct health care delivery to the qualifications for the administrator. Also, the new language will specify that currently required supervisory experience be within the last five years. In the home care services area, a related type of service to hospice care, the department received applications from people who were not qualified for the position, for example, a person with restaurant management experience and experience in a position distantly related to health care. Also, in one of the cases a home health care provider with tenure in home care long time ago, who later abandoned all of his patients, was a defendant in investment scam litigation. The purpose of these requirements is to make sure that the administrators possess appropriate training and experience to manage a hospice business.

While the main purpose of more advanced administrator qualifications is increasing the health and safety protection afforded to patients, the actual costs and benefits of this requirement will depend on the current compliance level with the proposed standards. Communication with the licensed providers revealed that most providers will easily be able to find a back up

administrator with the proposed qualifications, as most head nurses possess the proposed training and experience requirements. Therefore, the proposed administrator qualifications are not expected to introduce significant industry wide costs.

However, in a few instances, the possibility of a provider facing significant costs to meet this standard cannot be completely ruled out. It is also unclear whether the same level of qualifications is necessary for the back up administrators as their responsibility is temporary by definition. It appears that allowing a person with lower level qualifications to be a back up administrator would actually add to the economic benefits.

The remaining changes are not likely to produce any significant economic effects. They are mainly clarifications of the current practice and updating of language to incorporate statutory changes that have occurred since 1990. These changes include clarifying the type of insurance coverage required, clarifying that home visits are part of the inspection protocol, referencing the facility standards for dedicated hospice providers, updating pain management and infection control standards, updating social worker qualifications, establishing financial control standards for initial licensure, updating standards for patients rights, updating quality assurance criteria, removing mistaken references in record keeping standards, removing references that are in conflict with Medicare requirements, and incorporating the statutory criminal background check requirements.

## **Businesses and Entities Affected**

The proposed regulations apply to approximately 75 licensed hospice care providers.

## **Localities Particularly Affected**

No localities are expected to be affected any more than others.

## **Projected Impact on Employment**

Although the proposed changes could have some small employment effects, they are not expected to be significant. For example, increases in license fees could reduce the profitability of a provider and reduce employment. Or, increased qualifications for back up administrators, may force a provider to hire an additional person. However, the effect on profitability for an individual provider seems to be too small to affect employment. Similarly, there is a lack of

evidence that the proposed requirement for the back up administrator will affect a significant number of providers.

### **Effects on the Use and Value of Private Property**

The proposed regulations may reduce the value of businesses providing hospice services marginally. The reduction would be approximately the present value of the additional compliance costs such as higher license fees and, if any, wages for the additional position to meet the back up administrator requirement.